

REMARKS

Claims 13, 17 and 18 have been amended. Claims 14-16 have been cancelled. Reexamination and reconsideration are respectfully requested.

Applicant gratefully acknowledges the indicated allowability of claims 17-24 and the allowance of claims 25-30. Accordingly, Applicant has amended claims 17 and 18 to be in independent form including the limitations of the base and any intervening claims. Hence, claims 17 and 18 are now submitted to be in condition for allowance, along with dependent claims 19-24.

In the Office Action, claims 13 and 14 were rejected as being anticipated by LAMBROPOULOS (US 5,736,935). Moreover, dependent claims 15 and 16 were rejected as obvious over LAMBROPOULOS in view of SCHUERMAN (US 5,552,789). In view of the amendment made with respect to independent claim 13, Applicant respectfully traverses this rejection.

Applicant's amended claim 13 recites a method for operating a vehicle wherein a control device interrogates an authorization verification device for the purpose of starting the vehicle drive unit separately and independently of the dialogue for establishing access authorization to the vehicle. And, the interrogation also occurs during the operation of the vehicle drive unit.

By continuing the interrogation during the operation of the vehicle drive unit, Applicant's claimed invention advantageously provides a means for rapidly detecting a problem with the authorization verification device, such as due to a loss of memory or an electrical defect preventing its signal transmission (see page 3, line 12 - page 4, line 13 of substitute specification). Such rapid detection of a problem advantageously allows a corrective measure to take place, such as

the emission of a warning signal or the unlocking of an operative memory or, even, a traditional mechanical key (see page 4, lines 14-22).

By contrast, LAMBROPOULOS specifically states that its control device "ceases all interrogation activities...as long as the engine is running" (col. 9, lines 55-58). Hence, LAMBROPOULOS teaches away from continuing the interrogation during the operation of the engine. As for SCHUERMANN, it merely discloses a periodic interrogation of transponders via the control unit. It does not, however, teach or suggest continuing the interrogation of an access verification device transponder while the vehicle is running. Col. 7, lines 7-9 of SCHUERMANN appear to describe a situation in which a vehicle already started by means other than the transponder will be turned off if a proper identification code is not received from the transponder. Clearly, one skilled in the art would not employ such a dangerous feature – turning off an engine – in LAMBROPOULOS during driving of the vehicle. Doing so could have disastrous safety consequences. Rather, properly viewed, SCHUERMANN merely appears to recognize that a vehicle could be started in an unauthorized manner with a mechanical key and would then be turned off should the legitimate transponder not respond properly.

In view of the above, Applicant submits one skilled in the art is provided with no motivation or suggestion to combine SCHUERMANN and LAMBROPOULOS in the manner noted in the Office Action. Indeed, LAMBROPOULOS teaches against any interrogation during the running of the engine.

Accordingly, Applicant submits claim amended claim 13 is patentable over LAMBROPOULOS in view of SCHUERMANN.

For the foregoing reasons, Applicant submits claim 13 and 17-30 are now in condition for allowance. An early notice to that effect is solicited.


Summarizing, Applicant has made an important contribution to the art to which the present subject matter pertains, for which no counterpart is shown in any of the art or combination of same. The invention is fully set forth and carefully delimited in all claims in this case. Under the patent statute, Applicant should not be deprived of the protection to which he is entitled for this contribution. Accordingly, it is respectfully requested that favorable reconsideration and an early notice of allowance be provided for all remaining claims.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #951/48953).

Respectfully submitted,

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